



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

Paper No. 6

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
One Financial Center
Boston MA 02111

COPY MAILED

NOV 21 2002

OFFICE OF PETITIONS

In re Application of	:	
Esha A. Gangolli et al.	:	
Application No. 10/055,569	:	DECISION GRANTING
Filed: October 26, 2001	:	PETITION
Attorney Docket No. 21402-191 (Cura 491)	:	
Title: NOVEL HUMAN PROTEINS, POLYNUCLEOTIDES ENCODING THEM AND METHODS OF USING THE SAME	:	

This is a decision on the "Petition for Reconsideration of Notice of Omitted Items under 37 CFR §1.53(e)", filed June 7, 2002, which is properly treated as a petition under 37 CFR §1.53(b), requesting pages 31, 45, 56, and 138 of the specification be accorded a filing date of October 26, 2001 as part of the original disclosure.

On October 26, 2001, the above-identified application was filed. On April 9, 2002, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (Notice), stating that the application had been accorded a filing date of October 26, 2001, and advising applicant that pages 31, 45, 56, and 138 of the specification appeared to have been omitted. The Notice also stated that the oath or declaration was unsigned, and the \$130 fee associated with the late filing of an oath or declaration would be required¹. The Notice further indicated that a substitute specification would be required, as well as an initial computer readable form (CRF) copy of the

¹ This fee was received on August 9, 2002, along with a two-month extension of time. It should be noted that a copy of the executed oath or declaration has not been received.

sequence listing, an amendment directing its entry, and a statement as to its content².

In response, on June 7, 2002, applicants filed the present petition. The petition is further accompanied by a substitute specification, and a copy of applicants' postcard receipt acknowledging receipt of a 238 page specification in the United States Patent and Trademark Office (Office) on October 26, 2001. Applicants request that pages 31, 45, 56, and 138 of the specification be accorded a filing date of October 26, 2001.

Upon review of the record, the above-mentioned pages have not been located among the application papers. However, the evidence is convincing that the application papers deposited on October 26, 2001 included pages 31, 45, 56, and 138 of the specification and these pages were subsequently misplaced in the Office.

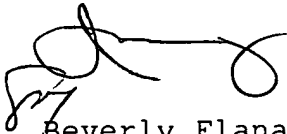
Therefore, the application, including pages 31, 45, 56, and 138 of the specification was complete on filing and entitled to a filing date of October 26, 2001 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The Notice mailed April 9, 2002 was sent in error and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of \$130 will be refunded to petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 26, 2001 as part of the original disclosure, using the original application papers filed on that date, as well as pages 31, 45, 56, and 138 of the specification submitted on June 7, 2002.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanowski at (703) 305-0011.



Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

² To date, neither the CRF, the amendment, nor the statement have been received.